

Department of Legislative Services
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FISCAL AND POLICY NOTE
Revised

Senate Bill 129
Finance

(Senator Pugh, *et al.*)

Economic Matters

International Marriage Brokers - Regulation

This bill requires an international marriage broker to provide a “recruit” with basic human rights information as well as the criminal and marital history information of a “client” before providing personal contact information about the recruit to the client. Moreover, before the identity of the recruit is disclosed to the client, the marriage broker must obtain written consent from the recruit.

Fiscal Summary

State Effect: General fund expenditures increase by about \$12,000 in FY 2011 due to contractual expenses incurred by the Department of Labor, Licensing, and Regulation (DLLR) to prepare a report by December 1, 2010, with recommendations on the feasibility of registering or licensing international marriage brokers. Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill’s penalty provisions.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: Clients are responsible for providing the marriage broker with their marital history information and any previous attempts to sponsor an international spouse. The broker must obtain State and national criminal background checks, including a search of the sex offender registry, on the client and provide them to the recruit.

Information provided to the recruit is confidential and must be provided in the recruit's native language, with all translation costs borne by the marriage broker.

An international marriage broker is subject to the provisions of the bill if the broker contracts with a State resident to provide services or is otherwise considered to be doing business in Maryland. The bill does not apply to (1) marriage brokers that operate on a nonprofit basis or do not charge a fee for their service; or (2) businesses that offer dating services if their principal function is not to provide international dating services between Maryland residents and foreign nationals and they charge comparable rates and offer comparable services to persons regardless of their general or country of citizenship. A person who violates the bill is guilty of a misdemeanor and is subject to a fine of up to \$12,000 and/or imprisonment for up to one year, in addition to any penalty imposed under federal law.

By December 1, 2010, DLLR – in consultation with the Department of Public Safety and Correctional Services – must (1) report on the feasibility of registering or licensing international marriage brokers; (2) recommend whether to implement a registration or licensing process through legislation; and (3) provide draft legislation to implement any recommended registration or licensing process.

Current Law: The federal International Marriage Broker Regulation Act of 2005 prohibits a marriage broker from providing a U.S. client with the contact information of a foreign national until the broker has provided the foreign national with specified information related to the client's criminal and marital history, number of dependents, and states of residence since age 18. The marriage broker then must obtain the consent of the foreign national before releasing his or her contact information.

The Act also requires the U.S. Department of Homeland Security to distribute pamphlets to foreign applicants for fiancée visas informing them of the nonimmigrant visa application process, their legal rights and obligations, and domestic violence and sexual abuse services. The pamphlets must be provided in at least 15 specified languages, with other translations provided as necessary.

The Act further requires that petitions for fiancée visas include information on the criminal convictions of the petitioner. The Secretary of Homeland Security is required to maintain a database that tracks multiple fiancée visa petitions by a single individual. A consular officer must verify that the individual has not simultaneously petitioned for multiple fiancée visas and that another fiancée visa has not been approved on behalf of the petitioner within the past two years.

Violations of the Act may result in civil penalties ranging between \$5,000 and \$25,000 and criminal penalties of up to five years in prison.

A person who is required to have a criminal history records check must pay the mandatory \$19.25 processing fee for the national records check assessed by the Federal Bureau of Investigation (FBI), a \$20.00 fingerprinting charge, and the \$18.00 fee for access to the Criminal Justice Information System (CJIS) Central Repository for Maryland criminal history records. When a state mandates a national check, the FBI requires that the national check be set in statute.

Background: In a 1999 report, the Immigration and Naturalization Service estimated that 200 international marriage brokers operated around the world, arranging between 4,000 and 6,000 marriages each year between American citizens and foreign nationals. The international marriage broker business has grown significantly in recent years, facilitated greatly by the Internet. Studies now suggest that 500 such companies operate in the United States. In addition, the total number of foreign fiancées entering the United States each year more than doubled between 1998 and 2002. It is currently estimated that at least 8,000 to 12,000 individuals in the United States find foreign spouses through for-profit international marriage brokers each year.

After several publicized accounts of domestic abuse of women who met their husbands through international marriage brokers, lawmakers in Washington passed laws to regulate international marriage brokers operating in that state. Hawaii, Missouri, and Texas have enacted similar legislation. These statutes, as well as the federal law, generally work to provide foreign nationals with information about their potential spouses and the resources available to them in the United States.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in District Court.

State Expenditures: Regulation of international marriage brokers is outside the purview of DLLR's current regulatory activities. Moreover, given the State's fiscal difficulties, agency budgets have been constrained. Thus, the requirement to research and develop a report – and make recommendations – on the feasibility of regulating or licensing international marriage brokers is not absorbable within DLLR's existing budgeted resources. Therefore, general fund expenditures increase by about \$12,000 in fiscal 2011 for contractual costs related to the development of materials to fulfill the bill's reporting requirement.

General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction facilities for convictions in Baltimore City. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

CJIS is self-supporting through the fees it charges; Legislative Services does not anticipate that the additional record checks required by this bill require expansion of the CJIS system.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

Additional Information

Prior Introductions: HB 596 of 2009, a similar bill, received a hearing in the House Economic Matters Committee and was referred for interim study. SB 1010/HB 1568 of 2008 received hearings in the Senate Finance Committee and House Economic Matters Committee, respectively, but no further action was taken on either bill.

Cross File: Although HB 65 (Delegate Haddaway, *et al.* - Economic Matters) is designated as a cross file, it is different.

Information Source(s): Office of the Attorney General (Consumer Protection); Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Secretary of State; Department of Legislative Services

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